



General Assembly

January Session, 2005

Raised Bill No. 6666

LCO No. 3458

03458_____GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT PROTECTING THE INTEGRITY OF THE PROCUREMENT PROCESS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1-210 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Except as otherwise provided by any federal law or state statute,
4 all records maintained or kept on file by any public agency, whether or
5 not such records are required by any law or by any rule or regulation,
6 shall be public records and every person shall have the right to (1)
7 inspect such records promptly during regular office or business hours,
8 (2) copy such records in accordance with subsection (g) of section 1-
9 212, or (3) receive a copy of such records in accordance with section 1-
10 212. Any agency rule or regulation, or part thereof, that conflicts with
11 the provisions of this subsection or diminishes or curtails in any way
12 the rights granted by this subsection shall be void. Each such agency
13 shall keep and maintain all public records in its custody at its regular
14 office or place of business in an accessible place and, if there is no such
15 office or place of business, the public records pertaining to such agency

16 shall be kept in the office of the clerk of the political subdivision in
17 which such public agency is located or of the Secretary of the State, as
18 the case may be. Any certified record hereunder attested as a true copy
19 by the clerk, chief or deputy of such agency or by such other person
20 designated or empowered by law to so act, shall be competent
21 evidence in any court of this state of the facts contained therein. Each
22 such agency shall make, keep and maintain a record of the proceedings
23 of its meetings.

24 (b) Nothing in the Freedom of Information Act shall be construed to
25 require disclosure of:

26 (1) Preliminary drafts or notes provided the public agency has
27 determined that the public interest in withholding such documents
28 clearly outweighs the public interest in disclosure;

29 (2) Personnel or medical files and similar files the disclosure of
30 which would constitute an invasion of personal privacy;

31 (3) Records of law enforcement agencies not otherwise available to
32 the public which records were compiled in connection with the
33 detection or investigation of crime, if the disclosure of said records
34 would not be in the public interest because it would result in the
35 disclosure of (A) the identity of informants not otherwise known or the
36 identity of witnesses not otherwise known whose safety would be
37 endangered or who would be subject to threat or intimidation if their
38 identity was made known, (B) signed statements of witnesses, (C)
39 information to be used in a prospective law enforcement action if
40 prejudicial to such action, (D) investigatory techniques not otherwise
41 known to the general public, (E) arrest records of a juvenile, which
42 shall also include any investigatory files, concerning the arrest of such
43 juvenile, compiled for law enforcement purposes, (F) the name and
44 address of the victim of a sexual assault under section 53a-70, 53a-70a,
45 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or
46 impairing of morals under section 53-21, or of an attempt thereof, or
47 (G) uncorroborated allegations subject to destruction pursuant to

48 section 1-216;

49 (4) Records pertaining to strategy and negotiations with respect to
50 pending claims or pending litigation to which the public agency is a
51 party until such litigation or claim has been finally adjudicated or
52 otherwise settled;

53 (5) (A) Trade secrets, which for purposes of the Freedom of
54 Information Act, are defined as information, including formulas,
55 patterns, compilations, programs, devices, methods, techniques,
56 processes, drawings, cost data, or customer lists that (i) derive
57 independent economic value, actual or potential, from not being
58 generally known to, and not being readily ascertainable by proper
59 means by, other persons who can obtain economic value from their
60 disclosure or use, and (ii) are the subject of efforts that are reasonable
61 under the circumstances to maintain secrecy; and

62 (B) Commercial or financial information given in confidence, not
63 required by statute;

64 (6) Test questions, scoring keys and other examination data used to
65 administer a licensing examination, examination for employment or
66 academic examinations;

67 (7) The contents of real estate appraisals, engineering or feasibility
68 estimates and evaluations made for or by an agency relative to the
69 acquisition of property or to prospective public supply and
70 construction contracts, until such time as all of the property has been
71 acquired or all proceedings or transactions have been terminated or
72 abandoned, provided the law of eminent domain shall not be affected
73 by this provision;

74 (8) Statements of personal worth or personal financial data required
75 by a licensing agency and filed by an applicant with such licensing
76 agency to establish the applicant's personal qualification for the
77 license, certificate or permit applied for;

78 (9) Records, reports and statements of strategy or negotiations with
79 respect to collective bargaining;

80 (10) Records, tax returns, reports and statements exempted by
81 federal law or state statutes or communications privileged by the
82 attorney-client relationship;

83 (11) Names or addresses of students enrolled in any public school or
84 college without the consent of each student whose name or address is
85 to be disclosed who is eighteen years of age or older and a parent or
86 guardian of each such student who is younger than eighteen years of
87 age, provided this subdivision shall not be construed as prohibiting the
88 disclosure of the names or addresses of students enrolled in any public
89 school in a regional school district to the board of selectmen or town
90 board of finance, as the case may be, of the town wherein the student
91 resides for the purpose of verifying tuition payments made to such
92 school;

93 (12) Any information obtained by the use of illegal means;

94 (13) Records of an investigation or the name of an employee
95 providing information under the provisions of section 4-61dd;

96 (14) Adoption records and information provided for in sections 45a-
97 746, 45a-750 and 45a-751;

98 (15) Any page of a primary petition, nominating petition,
99 referendum petition or petition for a town meeting submitted under
100 any provision of the general statutes or of any special act, municipal
101 charter or ordinance, until the required processing and certification of
102 such page has been completed by the official or officials charged with
103 such duty after which time disclosure of such page shall be required;

104 (16) Records of complaints, including information compiled in the
105 investigation thereof, brought to a municipal health authority pursuant
106 to chapter 368e or a district department of health pursuant to chapter
107 368f, until such time as the investigation is concluded or thirty days

108 from the date of receipt of the complaint, whichever occurs first;

109 (17) Educational records which are not subject to disclosure under
110 the Family Educational Rights and Privacy Act, 20 USC 1232g;

111 (18) Records, the disclosure of which the Commissioner of
112 Correction, or as it applies to Whiting Forensic Division facilities of the
113 Connecticut Valley Hospital, the Commissioner of Mental Health and
114 Addiction Services, has reasonable grounds to believe may result in a
115 safety risk, including the risk of harm to any person or the risk of an
116 escape from, or a disorder in, a correctional institution or facility under
117 the supervision of the Department of Correction or Whiting Forensic
118 Division facilities. Such records shall include, but are not limited to:

119 (A) Security manuals, including emergency plans contained or
120 referred to in such security manuals;

121 (B) Engineering and architectural drawings of correctional
122 institutions or facilities or Whiting Forensic Division facilities;

123 (C) Operational specifications of security systems utilized by the
124 Department of Correction at any correctional institution or facility or
125 Whiting Forensic Division facilities, except that a general description
126 of any such security system and the cost and quality of such system
127 may be disclosed;

128 (D) Training manuals prepared for correctional institutions and
129 facilities or Whiting Forensic Division facilities that describe, in any
130 manner, security procedures, emergency plans or security equipment;

131 (E) Internal security audits of correctional institutions and facilities
132 or Whiting Forensic Division facilities;

133 (F) Minutes or recordings of staff meetings of the Department of
134 Correction or Whiting Forensic Division facilities, or portions of such
135 minutes or recordings, that contain or reveal information relating to
136 security or other records otherwise exempt from disclosure under this

137 subdivision;

138 (G) Logs or other documents that contain information on the
139 movement or assignment of inmates or staff at correctional institutions
140 or facilities; and

141 (H) Records that contain information on contacts between inmates,
142 as defined in section 18-84, and law enforcement officers;

143 (19) Records when there are reasonable grounds to believe
144 disclosure may result in a safety risk, including the risk of harm to any
145 person, any government-owned or leased institution or facility or any
146 fixture or appurtenance and equipment attached to, or contained in,
147 such institution or facility, except that such records shall be disclosed
148 to a law enforcement agency upon the request of the law enforcement
149 agency. Such reasonable grounds shall be determined (A) with respect
150 to records concerning any executive branch agency of the state or any
151 municipal, district or regional agency, by the Commissioner of Public
152 Works, after consultation with the chief executive officer of the agency;
153 (B) with respect to records concerning Judicial Department facilities,
154 by the Chief Court Administrator; and (C) with respect to records
155 concerning the Legislative Department, by the executive director of the
156 Joint Committee on Legislative Management. As used in this section,
157 "government-owned or leased institution or facility" includes, but is
158 not limited to, an institution or facility owned or leased by a public
159 service company, as defined in section 16-1, a certified
160 telecommunications provider, as defined in section 16-1, a water
161 company, as defined in section 25-32a, or a municipal utility that
162 furnishes electric, gas or water service, but does not include an
163 institution or facility owned or leased by the federal government, and
164 "chief executive officer" includes, but is not limited to, an agency head,
165 department head, executive director or chief executive officer. Such
166 records include, but are not limited to:

167 (i) Security manuals or reports;

168 (ii) Engineering and architectural drawings of government-owned
169 or leased institutions or facilities;

170 (iii) Operational specifications of security systems utilized at any
171 government-owned or leased institution or facility, except that a
172 general description of any such security system and the cost and
173 quality of such system, may be disclosed;

174 (iv) Training manuals prepared for government-owned or leased
175 institutions or facilities that describe, in any manner, security
176 procedures, emergency plans or security equipment;

177 (v) Internal security audits of government-owned or leased
178 institutions or facilities;

179 (vi) Minutes or records of meetings, or portions of such minutes or
180 records, that contain or reveal information relating to security or other
181 records otherwise exempt from disclosure under this subdivision;

182 (vii) Logs or other documents that contain information on the
183 movement or assignment of security personnel at government-owned
184 or leased institutions or facilities;

185 (viii) Emergency plans and emergency recovery or response plans;
186 and

187 (ix) With respect to a water company, as defined in section 25-32a,
188 that provides water service: Vulnerability assessments and risk
189 management plans, operational plans, portions of water supply plans
190 submitted pursuant to section 25-32d that contain or reveal
191 information the disclosure of which may result in a security risk to a
192 water company, inspection reports, technical specifications and other
193 materials that depict or specifically describe critical water company
194 operating facilities, collection and distribution systems or sources of
195 supply;

196 (20) Records of standards, procedures, processes, software and

197 codes, not otherwise available to the public, the disclosure of which
198 would compromise the security or integrity of an information
199 technology system;

200 (21) The residential, work or school address of any participant in the
201 address confidentiality program established pursuant to sections 54-
202 240 to 54-240o, inclusive; and

203 (22) Responses to any procurement requests for proposals by a
204 public agency and any records or files made in connection with a
205 contract award process by any public agency until the contract is
206 awarded or until negotiations for the award of such contract have
207 ended, whichever occurs first, provided the chief officer of such public
208 agency certifies that the public interest in disclosure of such
209 information is outweighed by the public interest in confidentiality of
210 such information.

211 (c) Whenever a public agency receives a request from any person
212 confined in a correctional institution or facility or a Whiting Forensic
213 Division facility, for disclosure of any public record under the
214 Freedom of Information Act, the public agency shall promptly notify
215 the Commissioner of Correction or the Commissioner of Mental Health
216 and Addiction Services in the case of a person confined in a Whiting
217 Forensic Division facility of such request, in the manner prescribed by
218 the commissioner, before complying with the request as required by
219 the Freedom of Information Act. If the commissioner believes the
220 requested record is exempt from disclosure pursuant to subdivision
221 (18) of subsection (b) of this section, the commissioner may withhold
222 such record from such person when the record is delivered to the
223 person's correctional institution or facility or Whiting Forensic
224 Division facility.

225 (d) Whenever a public agency, except the Judicial Department or
226 Legislative Department, receives a request from any person for
227 disclosure of any records described in subdivision (19) of subsection
228 (b) of this section under the Freedom of Information Act, the public

229 agency shall promptly notify the Commissioner of Public Works of
230 such request, in the manner prescribed by the commissioner, before
231 complying with the request as required by the Freedom of Information
232 Act and for information related to a water company, as defined in
233 section 25-32a, the public agency shall promptly notify the water
234 company before complying with the request as required by the
235 Freedom of Information Act. If the commissioner, after consultation
236 with the chief executive officer of the applicable agency or after
237 consultation with the chief executive officer of the applicable water
238 company for information related to a water company, as defined in
239 section 25-32a, believes the requested record is exempt from disclosure
240 pursuant to subdivision (19) of subsection (b) of this section, the
241 commissioner may direct the agency to withhold such record from
242 such person. In any appeal brought under the provisions of section 1-
243 206 of the Freedom of Information Act for denial of access to records
244 for any of the reasons described in subdivision (19) of subsection (b) of
245 this section, such appeal shall be against the Commissioner of Public
246 Works, exclusively, or, in the case of records concerning Judicial
247 Department facilities, the Chief Court Administrator or, in the case of
248 records concerning the Legislative Department, the executive director
249 of the Joint Committee on Legislative Management.

250 (e) Notwithstanding the provisions of subdivisions (1) and (16) of
251 subsection (b) of this section, disclosure shall be required of:

252 (1) Interagency or intra-agency memoranda or letters, advisory
253 opinions, recommendations or any report comprising part of the
254 process by which governmental decisions and policies are formulated,
255 except disclosure shall not be required of a preliminary draft of a
256 memorandum, prepared by a member of the staff of a public agency,
257 which is subject to revision prior to submission to or discussion among
258 the members of such agency;

259 (2) All records of investigation conducted with respect to any
260 tenement house, lodging house or boarding house as defined in section

261 19a-355, or any nursing home, residential care home or rest home, as
262 defined in section 19a-490, by any municipal building department or
263 housing code inspection department, any local or district health
264 department, or any other department charged with the enforcement of
265 ordinances or laws regulating the erection, construction, alteration,
266 maintenance, sanitation, ventilation or occupancy of such buildings;
267 and

268 (3) The names of firms obtaining bid documents from any state
269 agency.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	1-210
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Statement of Purpose:

To prevent disclosure of information relating to the award of procurement contracts by state agencies.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]